

# **SCHOOL DISTRICT IMPLEMENTATION OF SECTION 504 IN ONE STATE**

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## **ABSTRACT**

*Section 504 of the Rehabilitation Act of 1973 is a civil rights law that applies to all school districts nationwide. Despite its wide coverage, there is a dearth of research on how the law is implemented. This study presents the results of an exploratory investigation of Section 504 practices with 154 special education directors in one northeastern state. Based upon a response rate of 55% (n = 85) results indicated that while most districts have formal Section 504 policies in place, this is a fairly recent development. Responsibility for the implementation of the regulations and the coordination of Section 504 plans fell to a wide range of personnel in the schools. Implications and areas for additional research are discussed.*

## **INTRODUCTION**

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance (§104.1). Given that federal education money is provided to state agencies, as well as to local and regional boards of education, Section 504 protections must be provided to all eligible children with disabilities served by these agencies (Dowaliby, 2002; Office for Civil Rights, n.d.). If the funding is provided by the U.S. Department of Education, Section 504 is enforced by the Office for Civil Rights (OCR), a branch of the U.S. Department of Education (Office for Civil Rights, n.d.).

Although the legislation was passed in 1973, it was largely ignored in the K-12 education system for more than 20 years (Rosenfeld, 1999; Smith, 2002). The lack of attention paid to Section 504 lead one educational lawyer to label it as the “black hole of the education law universe” (Rosenfeld, 1999). Various factors have been attributed to this lack of attention, including the false assumption that compliance with the Individuals with Disabilities Education Act (IDEA) was sufficient to meet the needs of all students with disabilities (Smith, 2002), and that the overlapping requirements of the IDEA and Section 504 “obscured” components of Section 504 regulations (Sergi, 2000). Additionally, because Section 504 is an antidiscrimination law, it is not accompanied by federal funds to foster compliance, in comparison to the IDEA, which does provide funding (Office for Civil Rights, n.d.; Seese, 2003).

In 1991, OCR issued a policy memorandum regarding Section 504. The memorandum stated that “under Section 504, a child with handicaps may be entitled to related services in the regular classroom even though the child may not need special education” (Office for Civil Rights, 1991, p. 4). The memorandum noted specifically that the obligation for providing these services to children with disabilities who do not qualify under the IDEA falls to the school district, and that students with Attention Deficit Disorder or Acquired Immune Deficiency Syndrome may be considered handicapped under the regulations of Section 504.

This memorandum and consequential increased enforcement of Section 504 amplified the importance of the legislation within the K-12 setting (Council of Administrators of Special Education, 1999; Seese, 2003). Awareness of the law by parents and child advocates lead to increased requests for services and protections (Blazer, 1999; Smith, 2002; Office for Civil Rights, 1991). The fact that OCR, a federal agency, can serve as an advocate for students with disabilities has provided lawyers and advocates with a powerful tool in disputes with school districts (Seese, 2003). As a result, an OCR resource document related to Section 504 noted that the agency “experienced a steady influx of complaints and inquiries in the area of elementary and secondary education involving Section 504. . .” (n.d., p. 1). The increased use of Section 504 is likely to be reinforced by changes in identification, evaluation and placement resulting from the reauthorization of IDEA (Madaus, Shaw, & Zhao, in press).

Section 504 provides other important avenues for both parents and school districts. A growing number of children with Other Health Impairments may be eligible for services under Section 504 but not the IDEA. For example, many students with chronic health conditions and sen-

sory or physical disabilities may only need accommodations provided by Section 504, not “specially designed instruction” required for receiving services under IDEA (Brady, 2004; deBettencourt, 2002; DePaepe, Garrison-Kane, & Doelling, 2005; Rosenfeld, 1999; Seese, 2003; Smith, 2002). This might include students with juvenile rheumatoid arthritis or spinal cord injuries (Kurtz, 2002). Students with other medical conditions such as food allergies, estimated to occur in 3% to 8% of all children, may require a structured written health care regimen as part of a Section 504 plan (DePaepe et al., 2005). Students with asthma have increased from 3% of all school children in 1981 to as many as 7% to 10% of students in 2002 and may require a medical intervention plan (DePaepe et al., 2005). The literature also notes examples of Section 504 plans being provided inappropriately as a “consolation prize” to students without disabilities who are struggling academically (Madaus & Shaw, 2004; “Misidentification,” 2004; “Over-providing,” 2004; Zirkel, 2004). Section 504 may enable some school districts to reduce the number of students identified under the IDEA to limit the cohort of students with disabilities when reporting test scores as required by the No Child Left Behind Act (Zirkel, 2004). The law may also provide students with eligibility for accommodations on high-stakes tests, such as the SAT, without the stigma of a special education label (Zirkel, 2004).

The literature on Section 504 in the K-12 arena has focused primarily on the differences between Section 504 and the IDEA (deBettencourt, 2002; Smith, 2002). There is a paucity of research related specifically to how districts implement the regulations. The limited examples include Katsiyannis and Conderman’s (1994) survey of state special education directors nationwide and Seese’s (2003) investigation of special education directors in one state. Katsiyannis and Conderman (1994) noted that eighty percent of the respondents reported that although local districts were required to implement formal Section 504 policies, the implementation was not monitored at the state level. Further, no state reported either collecting, or making plans to collect data on students served under Section 504. Seese (2003) indicated that 84% of the districts in her sample had formal, written 504 procedures in place, and that 63% of these were put in place within the past 10 years. Ninety-seven percent of the districts had a designated district-wide coordinator. In 77% of all districts participating in the study, this was the special education director.

The present study was designed to obtain detailed information regarding both logistical approaches to compliance (i.e., existence of formal policies, titles of Section 504 coordinators) and how specific components of the Section 504 regulations are implemented. Results of the investigation of spe-

cific components of the regulations can be found in Madaus et al., Shaw, & Zhao (in press).

### METHODOLOGY

A survey instrument was designed to measure current practices for the implementation of Section 504 in school districts in one state. The instrument consisted of two sections, one related to overall district practices, and one that asked respondents to rate on a five-point Likert scale how specific regulations related to Section 504 are implemented. All items on the survey were based upon a review of existing literature related to Section 504 and were subjected to a review by a panel of content experts. This panel consisted of special education faculty, teaching and school administration professionals, and advanced graduate students in special education. Items were subsequently revised based upon this feedback. The instrument was then developed electronically, and was subjected to testing by a group of faculty and doctoral students to ensure that the survey opened properly, that items allowed the proper number of responses (e.g., select that apply or only one choice), that the text boxes were accepting text, and that the coding fields were set properly.

An email describing the purpose of the study and providing the link to the survey was sent to each Special Education Director in the state ( $n = 154$ ) by the Special Education Bureau Chief of the State Department of Education. Although Section 504 is not a special education law, the responsibility for the implementation of the law most often falls with this group of professionals, and it was determined that this group would have the most comprehensive knowledge of the law (Seese, 2003). Two-waves of emails were distributed approximately two weeks apart. Responses were obtained from 55% of the sample ( $n = 85$ ). Specific results related to the nine-item survey can be found in Madaus, et al. (in press).

### RESULTS

*District information.* There was a nearly even split between respondents from rural (44%) and suburban (46%) districts, while urban districts constituted an addition 10% of the sample. The median number of schools in the districts was five, with 56 as the maximum. There was also variation in the number of students in the districts, ranging from a low of 300 students to a district with over 20,000 students. There was corresponding variation in the total number of students in the districts on Section 504 plans, ranging from eight students to 430 students, with an average of 63 students. Sixty-eight percent of the districts reported maintaining a centralized database of all students on

Section 504 plans, 13% reported such data being maintained at the local school level only, while 18% indicated that a centralized database was not maintained. Table 1 contains more specific information related to district characteristics.

*Respondent Information.* As noted, all respondents were the Directors of Special Education or Pupil Services. Respondents reported attending from no Section 504 meetings per year (14.2%) to attending over 50 per year (8.1%). The respondents rated their perceived knowledge of Section 504 regulations along a continuum that ranged from “No Knowledge” to “Very High Knowledge.” Twenty percent reported “Good Knowledge,” 49% reported “High Knowledge,” while 27% reported “Very High Knowledge” of the regulations.

*District 504 policies.* While nearly 79% of the districts reported having a formal policy in place, 20% responded that their district did not have a formal policy. Most district policies are relatively new; of the 44 respondents who provided the year that the policy was adapted, only one reported it being in place prior to 1990. Ninety-one percent developed the policy within the past ten years, with the most frequently reported year being 2002 (22.2%). Ninety-six percent of the respondents reported that their district had a designated Section 504 Coordinator. The titles of these individuals varied, but the duties Special Education/Pupil Services Directors were those most commonly reported (66%), followed by Principals/Assistant Principals (8%) or Assistant/Deputy Superintendents (6%).

A majority of respondents reported having a school based Section 504 coordinator (56%), while 11% reported that some, but not all, schools in the district had a designated coordinator. The title of these school-based coordinators varied, in some cases, multiple titles were reported. The most commonly designated coordinator at the school level was a principal/assistant principal (40%), followed by a guidance/school counselor (21%), a school psychologist (15.3%), and a social workers (8%).

Respondents were asked to provide the titles of all professionals who are responsible for coordinating Section 504 meetings. School social workers were most frequently reported (72%), followed by school counselors (58%) and special education directors (43.5%). Coordination of specific Section 504 plans fell most often to school counselors (71%), followed by special education directors (55%) and social workers (53%).

## DISCUSSION

Given the increase in the number of students on Section 504 plans and the number of court cases and OCR investigations related to Section 504, it is

**TABLE I.**  
**Respondent Information**

Item	N	%
<i>Type of district</i>		
Rural	37	44
Suburban	39	46
Urban	8	10
<i>Formal Section 504 district policy</i>		
Yes	66	79
No	17	20
Don't Know/Unsure	1	1
<i>If yes, year the policy was adapted</i>		
Before 1990	1	1
1990–1994	3	7
1995–2000	20	44
2001	3	7
2002	10	22
2003	5	11
2004	2	4
Missing/No Response	41	
<i>Designated School District 504 Coordinator</i>		
Yes	79	96
No	2	2
Don't Know/Unsure	1	1
<i>Title of District Coordinator</i>		
Special Education Director/Pupil Services Director	56	66
Principal/Assistant Principal	7	8
Assistant Superintendent/Deputy Superintendent	5	6
Other	4	5
Business Manager	3	4
School Psychologist	3	4
504 Specialist	1	1
<i>Designated 504 Coordinator at individual schools</i>		
Yes, in all schools	46	56
Yes, in some, but not all schools	9	11
No	25	31
Don't Know/Unsure	2	2
<i>Title of School Based Coordinator*</i>		
Principal/Assistant Principal	34	40
Guidance/School Counselor	18	21

**TABLE I.**  
**(Continued)**

Item	N	%
School Psychologist	13	15
Social Worker	7	8
Classroom Teachers	3	4
Special Education Director/Pupil Services Director	3	4
Special Education Teachers	2	2
504 Coordinator	1	1
No Response	31	36
<i>Section 504 meetings are coordinated by*</i>		
General Education Teachers	12	14
School Administrators	25	29
School Counselors	49	58
School Psychologists	7	8
School Social Workers	61	72
Special Education Teachers	11	13
Special Education Directors	37	44
Other	28	33
<i>Section 504 plans are coordinated by*</i>		
General Education Teachers	33	39
School Administrators	30	35
School Counselors	60	71
School Psychologists	14	17
School Social Workers	45	53
Special Education Teachers	21	25
Special Education Directors	47	55
Other	21	25
<i>Is a centralized database of 504 students maintained?</i>		
Yes, for all schools in the district	56	68
Yes, at the local school level only	11	13
Yes, at some, but not all, local schools	0	0
No	15	18
Don't know/Unsure	1	1

\* Participants asked to select all choices that apply.

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surprising that 20% of the reporting districts do not have a formal Section 504 policy in place. Interestingly, of the districts that have a policy in place, 91% reported that these policies were put into place within the past ten years, and nearly 50% of these were established in the past three years. Such findings support the suggestion of authors such as Rosenfeld (1999) and Smith (2002) that although Section 504 is more than 25 years old, it was mostly ignored by school districts until recently.

Another important finding was the variation in terms of responsibility for both coordination of overall Section 504 district compliance, and for the actual planning of meetings and coordination of Section 504 Plans. The overwhelming majority of districts (96%) reported having a designated Section 504 coordinator. This seems to represent an improvement over Seese's (2003) observation that it is not unusual "for district personnel to be unaware of which staff member serves in this role, and often, there is no one" (p. 20). Although Section 504 is a general education law, and not a special education law, the responsibility for being the district 504 coordinator fell to the special education director in two-thirds (66%) of the reporting districts. This finding is in line with Zirkel and Kincaid's (1993) observation that while the ultimate responsibility for Section 504 compliance lies with the superintendent of a district, special education directors are most often responsible for carrying out the law. In this investigation, special education directors reported having a "high" knowledge of Section 504 regulations ( $M = 4.1$  on a 5-point scale), with 77% describing their knowledge level as "high" or "very high."

However, at the individual school level, there appears to be a network of professionals responsible for ensuring Section 504 compliance. In those districts that reported having Section 504 coordinators in individual schools, the duties most often fell to the principal or assistant principal (40%), followed by school counselors (21%) and school psychologists (15%). The coordination of individual Section 504 meetings fell to a wide range of professionals, most often social workers (72%) and school counselors (57%). School counselors (71%) and social workers (53%) were also frequently reported as being responsible for coordinating Section 504 Plans. It is interesting to note that general education teachers were more often responsible for coordination of Section 504 plans than special education teachers (39% versus 25%). In addition, related services personnel have major responsibility for implementation of Section 504 in the schools. While Seese (2003) commented that no one "appears to want to own 504" (p. 59), it is possible that this spreading of responsibility is in keeping with the intent of the law. Additional investigation into this finding would be useful to determine if this

is a deliberate network, or an unintended patchwork, of professionals who came into the management of Section 504.

With the variation in responsibility for carrying out Section 504 mandates comes a range of practice regarding the maintenance of data related to students on Section 504 plans. Only two-thirds (68%) of the reporting districts indicated maintaining a district-wide, centralized database, while 13% reported maintaining such data at the local school level only. Thus, nearly 20% of the districts do not maintain a database of students on Section 504 plans. Again, given the increase in the use of Section 504 plans, this lack of data appears to be a potential risk for districts that may face an OCR complaint.

The recently reauthorized IDEA fosters major changes to the identification, assessment, placement, decision-making and due process procedures that have been used over the previous quarter century. In addition, the current discussion regarding No Child Left Behind also raises questions about a larger role for Section 504. Schools are required to disaggregate and be accountable for testing of students with disabilities under IDEA. It seems that students identified under Section 504 would not be part of that cohort, offering an incentive for schools to use Section 504 instead of IDEA (Zirkel, 2004).

It would seem that these circumstances could make Section 504 an increasingly important alternative to service provision for students with disabilities. Concurrently, the number of students diagnosed with medical and health conditions is rising rapidly. The number of students served under the Other Health Impairment category of the IDEA increased 351% from 1990–1991 to 1999–2000 (DePaepe et al. 2005). It is reasonable to assume that a percentage of students with such conditions who do not require special education services but may need Section 504 services also increased during this time period. The present findings, therefore, raise serious doubts regarding the readiness of school districts to deal with this challenge. Not only will it be necessary for many schools to develop Section 504 policies but they will also need to clarify personnel responsibilities. Whereas IDEA is a prescriptive special education law, Section 504 is a broad civil rights act, which does not provide schools with specificity regarding implementation. Given that general education, special education or related services personnel get little training regarding their role in implementing Section 504 in the schools, this should now be a critical element for staff and pre-professional development (Shaw & Madaus, 2004).

### LIMITATIONS

While the present results provide an important step in understanding actual Section 504 practices in school districts, there are some limitations to the findings. First, it would appear that urban districts were underrepresented (10%) in the sample. However, analysis of a list of respondents' districts revealed that 71% of the urban districts in the state participated in the study. Second, the sample for the study was special education directors. While in over two-thirds of all cases, the special education director is also the district compliance officer, perhaps there is someone more knowledgeable of district specific practices than the person who completed the survey. It was determined at the outset of the investigation that as a group, special education directors were the most knowledgeable regarding Section 504 regulations. Indeed, more than 77% of the respondents reported their knowledge of the law as "high" or "very high" and 20% described their knowledge level as "good." Thus, the present results can be considered to be a valid picture of district practices in the state in which it was conducted. An additional concern relates to the generalizability of the results from this state to other states in the nation. Section 504 is a national civil rights law and thus additional research on a broader national scale is warranted.

### SUGGESTIONS FOR FUTURE RESEARCH

Like Section 504 policy, which was often ignored until recently, actual Section 504 practices in local school districts have also been largely overlooked by researchers. Albeit exploratory and from one state, the present results are an important step in learning more about actual Section 504 practices. Additional research is warranted, especially with a broader national sample. Specific areas in need of examination include how different components of the regulations are actually implemented, and the responsibilities of various school based professionals in the coordination and implementation of the regulations. While this investigation asked special education directors to rate their knowledge of Section 504 regulations, this was done via a self-reported single question. Research that explores knowledge levels in more depth would be extremely useful in targeting professional training needs of special educators and related service personnel working with students with physical and health disabilities. Furthermore, research that examines how classroom teachers and other related service professionals work within the regulations would be important. Finally, use of case studies related to particular Section 504 examples would provide additional insight into how the regulations are enacted as well as into both intended and unintended implications and consequences of the legislation.

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